Attorney Docket No. 9400-69 (030426) <u>PATENT</u>

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Thomas Arnold Anschutz   Confirmation No. 6634
Application No.: 10/747,736   Group Art Unit: 2154
Filed: December 29, 2003   Examiner: Viet Duy Vu
For: METHODS, SYSTEMS AND COMPUTER PROGRAM PRODUCTS FOR USING
      A TRANSLATION/INSTRUCTION SYSTEM TO REDIRECT A
      MULTIPROTOCOL LABEL SWITCHING (MPLS) PACKET

                                         May 1, 2008

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Commissioner for Patents
P.O. Box 1450
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REASONS IN SUPPORT OF APPLICANT'S PRE-APPEAL
BRIEF REQUEST FOR REVIEW

Sir:

This document is submitted in support of the Pre-Appeal Brief Request for Review filed concurrently with a Notice of Appeal in compliance with 37 C.F.R. 41.31 and with the rules set out in the OG of July 12, 2005 for the New Appeal Brief Conference Pilot Program, which have been extended indefinitely

No fee or extension of time is believed due for this request. However, if any fee or extension of time for this request is required, Applicants request that this be considered a petition therefor. The Commissioner is hereby authorized to charge any additional fee, which may be required, or credit any refund, to our Deposit Account No. 50-0220.

Applicant hereby requests a Pre-Appeal Brief Review (hereinafter "Request") of the claims finally rejected in the Final Office Action mailed February 1, 2008 (hereinafter "Final Action"). The Request is provided herewith in accordance with the rules set out in the OG dated July 12, 2005.

Applicant appreciates the withdrawal of the previous rejections set forth in the Office Action of September 10, 2007. Applicant respectfully submits, however, that the rejections of the currently pending claims are clearly erroneous because many of the recitations of the pending claims are not met by the cited references for at least the reasons discussed herein.

Therefore, Applicant respectfully requests review of the present application by an appeal conference prior to the filing of an appeal brief. In the interest of brevity and without waiving the right to argue additional grounds should this Petition be denied, Applicant will only discuss the recitations of independent Claims 1, 20, 22, 41, 43, and 62.

Independent Claims 1, 20, 22, 41, 43, and 62 are Patentable

Independent Claims 1, 20, 22, 41, 43, and 62 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U. S. Patent Publication No. US 2006/0013209 to Somasundaram (hereinafter "Somasundaram") in view of U. S. Patent No. 7,174,427 to Ramia (hereinafter "Ramia"). (Final Action, page 2).

Independent Claim 1 is directed to a method of processing an MPLS packet and recites, in part:

> receiving an MPLS packet having first header information comprising at least a first MPLS label at a first MPLS network node;
> operating a translation system to obtain second header information comprising at least a second MPLS label, the translation system being independent of MPLS lookup tables used to define label switched paths;
> modifying the MPLS packet with the second header information; and
> routing the MPLS packet to a second MPLS network node based on the second header information. (Emphasis added).

Independent Claims 22 and 43 include similar recitations. As highlighted above, independent Claim 1 states that a translation system is used to obtain additional header information for a packet including a second MPLS label. The MPLS packet is then modified with the second header information. As explained in paragraphs 37 - 39 on pages 8 and 9 of the Specification, the translation system may be used to enable a network node to act as a redirection point for packet traffic. Rather than necessarily follow a current label switched path defined by the lookup table at the receiving network node, the translation system may be used to redirect the packet to another node, which may even be in a network that does not share the same MPLS label space as the receiving node. (Specification, paragraph 38).

The Final Action cites the operations of the router/NAT device 104 shown in FIG. 1 of Somasundaram and described in paragraphs 34 – 38 as disclosing most of the recitations of independent Claim 1. (Final Action, page 2). The Final Action acknowledges that

Somasundaram does not disclose modifying the MPLS packet with second header information that includes an MPLS label, but alleges that Ramia provides the missing teachings. (Final Action, page 3). As shown in FIG. 3, however, Somasundaram uses a provider edge device identifier 312 and a VPN identifier 314 as an MPLS tag. As explained in paragraph 35 of Somasundaram, the VPN identifier 314 portion of the MPLS tag is used in selecting a record from the translation table 400 in which private VPN addresses are associated with public addresses that are used outside the VPN network. Somasundaram further explains in paragraphs 37 and 38 that when a packet is sent from a private IP source outside the VPN, the private address is translated to a public address and vice versa. Accordingly, one skilled in the art would not replace the public/private addresses used in Somasundaram with a MPLS tag as described in Ramia when modifying an MPLS packet for routing as Somasundaram uses a general VPN identifier as a MPLS tag and this information is insufficient to route the packet. According to Somasundaram, the VPN is used to obtain the more detailed public/private address associations used for routing. Applicant submits, therefore, that modifying the routing system of Somasundaram with the general MPLS label teachings of Ramia would render Somasundaram's routing system inoperable.

Independent Claim 20 is also directed to a method of processing an MPLS packet and recites, in part:

> receiving an MPLS packet having first header information comprising at least a first MPLS label at a first MPLS network node;
> obtaining operating instructions from an instruction system for the first MPLS network node responsive to the first header information, the instruction system being independent of MPLS lookup tables used to define label switched paths; and
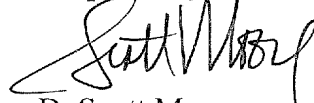> operating the first MPLS network node based on the operating instructions.

Independent Claims 41 and 62 include similar recitations. As explained in paragraph 41 on page 9 of the Specification, "... the translation/instruction system 225 may be operated to generate operating instructions for the first MPLS node. The first MPLS node may be operated in accordance with these instructions/directives to, for example, mirror packets to a monitoring port, log packet and/or flow information, change the quality of service associated with the traffic, and/or perform some other function."

The Final Action does not appear to identify what elements of Somasundaram's disclosure correspond to the MPLS network node and instruction system recited in independent Claim 20. (Final Action, page 2). It appears that the router /NAT device 104 is alleged to correspond to the MPLS network node, but Applicant submits that Somasundaram fails to disclose or suggest an instruction system that provides operating instructions to the router/NAT device 104. The Final Action does not particularly point out what element of Somasundaram corresponds to the instruction system recited in independent Claim 20.

For at least the foregoing reasons, Applicants respectfully requests that the present application be reviewed and that the rejection of independent Claims 1, 20, 22, 41, 43, and 62 be reversed by the appeal conference prior to the filing of an appeal brief.
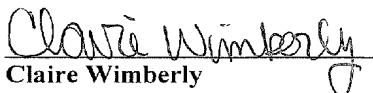
Respectfully submitted,

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CERTIFICATION OF ELECTRONIC TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on May 1, 2008.

Claire Wimberly